

MINUTES

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

1/24/2006 4:30 pm

SUE BEITIA, CLERK

CASE NUMBER: CV 03-00385SOM-LEK

CASE NAME: Wayne Berry vs. HI Express Service, Inc., et al.

ATTYS FOR PLA: Timothy Hogan
Wesley Ichida

ATTYS FOR DEFT: Eric Liebeler
Damian Capozzola
Lex Smith
Lyle Hosoda
Raina Mead

INTERPRETER:

JUDGE: Susan Oki Mollway

REPORTER: Steve Platt

DATE: 1/24/2006

TIME: 9:00 - 12:35
1:20 - 2:00

COURT ACTION: EP: Jury Selection/Trial -

Discussion held re: Dr. Walker, and the HEX and Vicarious Infringement -

Court will not allow the HEX infringement issue to come in - duplicative.

Further discussion to be conducted after jury selection re: Dr. Walker.

Jury Selection - 38 Prospective Jurors present.

A panel of 8 Jurors selected.

No objection to the manner in which this panel was selected.

All parties satisfied with this panel.

Jurors sworn and excused.

Discussion held re: Guidance materials that were produced yesterday by the defendants.

Mr. Hogan requests a continuance of trial in order to review the materials for his case in chief - objection by the defendants.

Parties to confer with their witnesses re: scheduling if trial is continued to 2/28/06.

1:20 p.m. - Parties indicate that scheduling of witnesses is manageable if trial is continued.

Defendants are allowed to take a preservation deposition of Theresa Noa.

1:30 p.m. - Jurors present.

Court informs the Jurors that trial will be continued to 2/28/06 @ 9:00 a.m.

Jurors to report to the jury lounge on 2/28/06 @ 8:45 a.m.

Jurors have no conflict with the new trial date.

Jurors excused.

Court imposes new deadlines:

Defendant to make available to plaintiff's counsel on 1/24/06 a copy of the materials that were turned over to Dr. Walker, including privileged materials.

Mr. Hogan may not claim that the attorney-client privilege has been waived as a result of his review of documents on 1/24/06..

Mr. Hogan to complete reviewing the recently produced materials no later than 2/7/06. Mr. Hogan's expert, Mr. Uyeno, may amend or supplement his expert report in light of the newly produced materials. Mr. Hogan must turn over any amendment to defense counsel no later than 3:00 p.m. 2/10/06.

Mr. Uyeno to be available to be deposed by 2/14/06.

Any defense expert may amend or supplement his report in light of any amended report by Mr. Uyeno. Any amended report must be turned over to plaintiff no later than 3:00 p.m. 2/17/06.

Any defense expert who does amend his report must be available to be deposed by the morning of 2/21/06.

Plaintiff's Motion for Issuance of Permanent Injunction set for 1/30/06 @ 10:30 a.m. SOM is continued to 3/6/06 @ 9:00 a.m. SOM.

Designation of additional trial exhibits due by 2/17/06.

Any additional motions in limine to be filed by 12:00 p.m. 2/22/06.

Oppositions to motions in limine to be filed by 12:00 p.m. 2/23/06.

Hearing on motions in limine set for 2/24/06 @ 2:00 p.m.

Any new jury instructions to be filed by 12:00 p.m. 2/22/06.

Objections to new jury instructions be filed by 4:00 p.m. 2/24/06.

A Status Conference is set for 1/30/06 @ 10:30 a.m. SOM.

Mainland counsel may appear by phone.

No later than Friday, 2/27/06, parties to notify the Court if the status conference will go forward or not.

Submitted by: Toni Fujinaga, Courtroom Manager.